



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **INTERIM DECISION**

### Dispute Codes:

CNR, CNC, OLC, LAT, and FF

### Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause, to set aside a Notice to End Tenancy for Unpaid Rent, for an Order authorizing the Tenant to change the locks, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*, *Regulation*, or tenancy agreement, and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

The Tenant filed his Application for Dispute Resolution on February 10, 2011 and he did not serve the Application for Dispute Resolution and Notice of Hearing to the Agent for the Landlord until February 16, 2011.

The Agent for the Landlord stated that the Landlord filed an Application for Dispute Resolution on February 17, 2011. He stated that he mailed copies of the Application for Dispute Resolution, the Notice of Hearing, and several pages of evidence to the Tenant at the rental unit, via registered mail, on February 18, 2011. The Tenant stated that he has not yet received those documents.

Residential Tenancy Branch records show that the Landlord has filed an Application for Dispute Resolution, in which the Landlord applied for an Order of Possession for Unpaid Rent; a monetary Order for damage to the rental unit, damage to the rental unit, and unpaid rent; to retain the security deposit paid by the Tenant; and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Residential Tenancy Branch records show that a hearing to determine the merits of the Landlord's Application for Dispute Resolution has been scheduled for February 28, 2011 at 9:00 a.m.

### Background and Evidence

The Agent for the Landlord stated that he wished to have the hearing into the Tenant's Application for Dispute Resolution adjourned to February 28, 2011 so that it can be heard in conjunction with the Landlord's Application for Dispute Resolution. The Agent for the Landlord requested the adjournment so that evidence the Landlord mailed to the Tenant on February 18, 2011, which the Landlord believes is relevant to matters in

dispute in both proceedings, can be considered.

The Tenant stated that he did not wish the matter to be adjourned although it was not clear to me why he opposed the adjournment. He repeatedly stated that he had paid his rent and he wished the matter to be resolved today. He was given several opportunities to argue that the delay would be prejudicial to him however he was unable to provide a reason to deny the Landlord's request, other than he had paid his rent.

### Analysis

Section 73(2) of the *Act* stipulates that if two or more applications for dispute resolution are accepted in respect of disputes between the same landlord and tenant, the disputes may be heard together. I find that some of the issues in dispute in the Tenant's Application for Dispute Resolution are the same as some issues in dispute in the Landlord's Application for Dispute Resolution and I therefore find that the matters should be heard together, pursuant to section 73(2) of the *Act*.

In determining that it is appropriate to adjourn this matter, I determined that a delay of six days will not unduly prejudice the Tenant, as the Tenant is seeking to continue this tenancy and he will be permitted to remain in the rental unit until this matter is resolved.

In determining that it is appropriate to adjourn this matter, I was influenced by the fact that the Landlord was only served with notice of the Tenant's Application for Dispute Resolution on February 17, 2011, which made it extremely difficult for the Landlord to prepare and mail evidence to the Tenant prior to this hearing. I find that an adjournment is necessary to provide the Landlord with the opportunity to serve evidence.

### Conclusion

As I have determined that the Tenant's Application for Dispute Resolution and the Landlord's Application for Dispute Resolution should be joined, I hereby adjourn this hearing until February 28, 2011 at 9:00 a.m. Notices of Reconvened Hearing for February 28, 2011 have been mailed with this Interim Decision to both parties. Both parties are directed to attend the hearing at the date and time noted on the Notice of Reconvened Hearing, at which time the merits of the Tenant's Application for Dispute Resolution will be considered.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 22, 2011.

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Residential Tenancy Branch